

IC 35-48

ARTICLE 48. CONTROLLED SUBSTANCES

IC 35-48-1

Chapter 1. Definitions

IC 35-48-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 9.3 of this chapter by P.L.225-2003 applies only to a controlled substance offense under IC 35-48-4 that occurs after June 30, 2003.

As added by P.L.220-2011, SEC.627. Amended by P.L.63-2012, SEC.81.

IC 35-48-1-1

Repealed

(Repealed by P.L.5-1988, SEC.208.)

IC 35-48-1-2

Definitions; application

Sec. 2. The definitions in this chapter apply throughout this article.

As added by P.L.5-1988, SEC.182.

IC 35-48-1-3

"Administer"

Sec. 3. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (1) a practitioner or by his authorized agent; or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

As added by P.L.5-1988, SEC.183.

IC 35-48-1-4

Repealed

(Repealed by P.L.84-2010, SEC.102.)

IC 35-48-1-5

"Agent"

Sec. 5. "Agent" means an authorized person who acts on behalf of, or at the direction of, a manufacturer, distributor, or dispenser, but it does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

As added by P.L.5-1988, SEC.185.

IC 35-48-1-6

"Board"

Sec. 6. "Board" refers to the Indiana state board of pharmacy.

As added by P.L.5-1988, SEC.186.

IC 35-48-1-7**"Cocaine"**

Sec. 7. "Cocaine" includes coca leaves and any salt, compound, or derivative of coca leaves, and any salt, compound, isomer, derivative, or preparation which is chemically equivalent or identical to any of these substances. However, decocainized coca leaves or extraction of coca leaves that do not contain cocaine or ecgonine are not included.

As added by P.L.5-1988, SEC.187.

IC 35-48-1-8**Repealed**

(Repealed by P.L.3-1989, SEC.224.)

IC 35-48-1-9**"Controlled substance"**

Sec. 9. "Controlled substance" means a drug, substance, or immediate precursor in schedule I, II, III, IV, or V under:

- (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
- (2) a rule adopted by the board, if IC 35-48-2-14 applies.

As added by P.L.5-1988, SEC.189.

IC 35-48-1-9.3**"Controlled substance analog"**

Sec. 9.3. (a) "Controlled substance analog" means a substance:

- (1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or

- (2) that a person represents or intends to have;

a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The definition set forth in subsection (a) does not include:

- (1) a controlled substance;
- (2) a substance for which there is an approved new drug application;
- (3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; or
- (4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance.

As added by P.L.225-2003, SEC.1.

IC 35-48-1-10

"Counterfeit substance"

Sec. 10. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

As added by P.L.5-1988, SEC.190.

IC 35-48-1-11**"Delivery"**

Sec. 11. "Delivery" means:

- (1) an actual or constructive transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship; or
- (2) the organizing or supervising of an activity described in subdivision (1).

As added by P.L.5-1988, SEC.191. Amended by P.L.165-1990, SEC.1.

IC 35-48-1-12**"Dispense"**

Sec. 12. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner and includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

As added by P.L.5-1988, SEC.192.

IC 35-48-1-13**"Dispenser"**

Sec. 13. "Dispenser" means a practitioner who dispenses.

As added by P.L.5-1988, SEC.193.

IC 35-48-1-14**"Distribute"**

Sec. 14. "Distribute" means to deliver other than by administering or dispensing a controlled substance.

As added by P.L.5-1988, SEC.194.

IC 35-48-1-15**"Distributor"**

Sec. 15. "Distributor" means a person who distributes.

As added by P.L.5-1988, SEC.195.

IC 35-48-1-16**"Drug"**

Sec. 16. "Drug" has the meaning set forth in IC 16-42-19-2. It does not include devices or their components, parts, or accessories, nor does it include food.

As added by P.L.5-1988, SEC.196. Amended by P.L.2-1993, SEC.190.

IC 35-48-1-16.4

"Drug offense"

Effective 7-1-2014.

Sec. 16.4. "Drug offense" means a felony or misdemeanor involving the production, delivery, sale, or possession of a controlled substance.

As added by P.L.158-2013, SEC.618.

IC 35-48-1-16.5

"Enhancing circumstance"

Effective 7-1-2014.

Sec. 16.5. "Enhancing circumstance" means one (1) or more of the following:

- (1) The person has a prior conviction for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug.
- (2) The person committed the offense while in possession of a firearm.
- (3) The person committed the offense:
 - (A) on a school bus; or
 - (B) in, on, or within five hundred (500) feet of:
 - (i) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (ii) a public park while a person under eighteen (18) years of age was reasonably expected to be present.
- (4) The person delivered or financed the delivery of the drug to a person under eighteen (18) years of age at least three (3) years junior to the person.
- (5) The person manufactured or financed the manufacture of the drug.

As added by P.L.158-2013, SEC.619.

IC 35-48-1-17

"Immediate precursor"

Sec. 17. "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediate used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

As added by P.L.5-1988, SEC.197.

IC 35-48-1-18 Version a

"Manufacture"

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 18. "Manufacture" means:

(1) the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. It does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(A) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(B) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(2) the organizing or supervising of an activity described in subdivision (1).

As added by P.L.5-1988, SEC.198. Amended by P.L.165-1990, SEC.2; P.L.17-2001, SEC.18.

IC 35-48-1-18 Version b

"Manufacture"

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 18. "Manufacture" means the following:

(1) For offenses not involving marijuana, hashish, or hash oil:

(A) the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. It does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(i) by a practitioner as an incident to administering or dispensing of a controlled substance in the course of a professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(B) the organizing or supervising of an activity described in clause (A).

(2) For offenses involving marijuana, hashish, or hash oil:

(A) the preparation, compounding, conversion, or processing of marijuana, hashish, or hash oil, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the marijuana,

hashish, or hash oil, or labeling or relabeling of its container. It does not include planting, growing, cultivating, or harvesting a plant, or the preparation, compounding, packaging, or labeling of marijuana, hashish, or hash oil:

- (i) by a practitioner as an incident to lawfully administering or dispensing of marijuana, hashish, or hash oil in the course of a professional practice; or
- (ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(B) the organizing or supervising of an activity described in clause (A).

As added by P.L.5-1988, SEC.198. Amended by P.L.165-1990, SEC.2; P.L.17-2001, SEC.18; P.L.158-2013, SEC.620.

IC 35-48-1-19

"Marijuana"

Sec. 19. "Marijuana" means any part of the plant genus *Cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom); or the sterilized seed of the plant which is incapable of germination.

As added by P.L.5-1988, SEC.199.

IC 35-48-1-20

"Narcotic drug"

Sec. 20. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical to any of the substances referred to in subdivision (1) of this definition, but not including the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.

As added by P.L.5-1988, SEC.200.

IC 35-48-1-21

"Opiate"

Sec. 21. "Opiate" means a substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or

addiction-sustaining liability. It does not include, unless specifically designated as controlled under IC 35-48-2, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

As added by P.L.5-1988, SEC.201.

IC 35-48-1-22

"Opium poppy"

Sec. 22. "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

As added by P.L.5-1988, SEC.202.

IC 35-48-1-23

"Poppy straw"

Sec. 23. "Poppy straw" means any part, except the seeds, of the opium poppy, after mowing.

As added by P.L.5-1988, SEC.203.

IC 35-48-1-24

"Practitioner"

Sec. 24. "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other institution or individual licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in Indiana.

As added by P.L.5-1988, SEC.204.

IC 35-48-1-25

"Prescription drug"

Sec. 25. "Prescription drug" means a controlled substance or a legend drug (as defined in IC 16-18-2-199).

As added by P.L.5-1988, SEC.205. Amended by P.L.2-1993, SEC.191.

IC 35-48-1-26

"Production"

Sec. 26. "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

As added by P.L.5-1988, SEC.206.

IC 35-48-1-26.5

"Sale to minor"

Effective 7-1-2014.

Sec. 26.5. "Sale to a minor" means delivery or financing the delivery of a drug to a person less than eighteen (18) years of age and at least three (3) years junior to the person making the delivery or financing.

As added by P.L.158-2013, SEC.621.

IC 35-48-1-27

"Ultimate user"

Sec. 27. "Ultimate user" means a person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administering to an animal owned by the person or by a member of the person's household.

As added by P.L.5-1988, SEC.207.